

TO: STANDING COMMITTEE ON PLANNING AND ZONING (SC P&Z)
CC: Framingham Town Clerk, Valerie Mulvey
Planning and Development Director, Kathy Bartolini
Planning Board Director, Jay Grande
From: Hank Moran, SC P&Z Clerk
Date: January 3, 2006
Subject: Minutes of the December 5, 2005 Meeting of the SC P&Z

Attendance

With a quorum present, Tom O'Neil, SC P&Z Chair, called the meeting to order at 7:05 PM. The following Committee members were present during part of or the entire meeting.

Precinct	2005-2006 Member
1	Ted Anthony
2	Steve Shull
3	Harold J. Moran, Clerk
4	Robert Berman
5	Yaakov Cohn
6	Edward Levay
8	Tom O'Neil, Chair
9	Bruce Leish
11	Ted Cosgrove
12	Betty Muto
17	Ned Price, Vice Chair

1. Article 1 of the December 7 Special Town Meeting I: Rezoning of Parcels on Old Connecticut Path from Manufacturing to Office and Professional

Audrey Hall and Greg Rotatori presented to the Committee the background and purpose of this Article, which proposed to rezone 3 parcels located on Old Connecticut Path in Precinct 3 from Manufacturing to Office and Professional. Audrey and Greg, representing the Oaks Neighborhood Association, were the sponsors of the Article, which was the result of petitions submitted to the offices of the Board of Selectmen and the Town Clerk on November 4 in support of the rezoning. The Town Clerk's office validated 237 signatures on the petitions, which led to the scheduling of the December 7 Special Town Meeting. Audrey and Greg asked for the Committee's support of the Article.

The land proposed for rezoning abuts the Cochituate Rail Trail, protected wetlands, the Cochituate Brook reservation, Reardon Park, and two well-established residential neighborhoods. Maps of the parcels and general area were provided for reference. The maps showed current zoning versus the current use: though much of the area is zoned for Manufacturing, all of the properties that are in closest proximity to the parcels in question are used as Office & Professional, and none are used for manufacturing.

Audrey and Greg pointed out that the town's master plan was designed to change areas such as this one to more appropriate zoning, and that some areas have indeed already been changed, but not these specific parcels. Audrey noted that the current owners of these parcels, Nissan auto service, a Shell gas station, and Paulini loam, were aware of the Article, and also that the proposed zoning change would not take away any of the use rights of these current owners. Those rights would remain in perpetuity. The purpose of the Article was not to impact those rights, but rather to ensure that those uses do not become more intense and intrusive by allowing for the possible development of a heavy manufacturing facility on the sites, right up against the residential area, rail trail, brook, protected wetlands, and nearby park.

The Committee discussed the purpose and merits of the Article in considerable detail. Participating in this discussion were Jay Grande (Director) and Tom Mahoney (Chair) of the Planning Board (PB). Jay also

introduced Jessica Levengood, the new Senior Planner now working as a staff member to the PB based on funding recently approved by Town Meeting. At the request of the PB, Jessica had developed an analysis of the proposed rezoning, which led to her recommendation that the Board endorse this change. (Copies of this memorandum were provided to P&Z.) Jessica had presented this information to the PB for consideration at their public hearing on the Article on November 22, 2005. At that hearing following input from those attending the PB voted 4 in favor, 0 opposed (4 members present) to support the Article. In addition to providing this background information to the P&Z Committee, Jay and Tom responded to questions from Committee members regarding the PB's position on the proposed rezoning.

Ted Anthony submitted a motion, seconded by Bob Berman, that the SC P&Z support the Article as presented in the warrant. The vote was 10 in favor, 0 opposed, and 0 abstentions

2. Article 1 of the December 7 Special Town Meeting II: Amendments to Section IV.I.2 of the Zoning By-Law

Jay and Tom presented the background and rationale for this PB-sponsored Article, which was to be the subject of the second Special Town Meeting session scheduled for December 7. They were seeking SC P&Z support for the Article.

They pointed out that the exact wording of the proposed amendment to the Site Plan Review section of the By-Law was being changed from the initial text approved for inclusion in the warrant to the text as presented in the background material in the warrant. The wording was changed based on the advice of Town Counsel, who recommended that the proposed changes "be split into separate provisions for greater clarity" and proposed new wording for the amendment. Jay presented this information to the PB in a November 21, 2005 letter, and they approved the change. A copy of this correspondence was provided to P&Z.

The main thrust of the change was to lower the threshold for requiring site plan review for any proposed new or changed structure or group of structures from 5,000 to 3,000 square feet of "gross floor area," or requiring "5 or more parking spaces or an off-street loading facility," if the project is "located in or lies within 200 feet of a residential district." The amendment would have the effect of expanding the range of projects that would require site plan review, thereby protecting residential districts from large-scale developments that could negatively impact neighborhoods. The new requirement would apply to all projects throughout the Town.

Concerns were raised about the possibility of litigation for some projects, for example where the applicant may claim that the By-Law is discriminatory, or question the limits of the town's discretion in applying the By-Law. Tom and Jay noted that certain guidelines would be developed and applied to enable proper and effective application of the new provisions, and as new projects come forward precedents will evolve that can be used to guide future applications and reviews.

Hank Moran submitted a motion, seconded by Bruce Leish, that the SC P&Z support the Article as presented in the warrant. The vote was 9 in favor, 0 opposed, and 1 abstention.

3. Approval of Minutes from the October 17, 2005 P&Z Meeting

Betty Muto offered a motion, seconded by Ed Levay, to approve the minutes of the October 17, 2005 SC P&Z meeting. The minutes were approved by a vote of 5 in favor, 0 opposed, and 4 abstentions.

4. Meeting of the Rules Committee

Tom announced that the Rules Committee, which was also meeting that evening, requested that a member of the P&Z Committee attend their meeting. Tom asked Bob Berman if he would attend as the Committee's representative, and Bob agreed to do so.

5. Discussion of the Department of Planning and Development

In previous meetings of the Committee there has been discussion regarding the role and activities of the Department of Planning and Economic Development, and motions made and approved to invite Kathy Bartolini, Director of PED to meet with the Committee at a time not specified. The topic arose again at this meeting on December 5. On this occasion the Committee developed some questions to provide to Kathy in advance of the meeting, and requested the Chair to invite her to our next meeting in January if feasible.

Following are some of the questions and points raised during this discussion. These are listed as they occurred, not in any sorted manner.

- Where are we currently on mixed use zoning for downtown Framingham, for example with the Dennison project?
- Where are we in general in planning for downtown? Would like to be kept informed with regular updates on progress.
- We do not do line-item budgeting. What do you do about real planning for the Town?
- Should the PED Department be under the purview of the PB rather than under the Board of Selectmen (BoS)? If not, why not? Why should the PED be separate from the PB? (One Committee member thought that this question should be addressed by the Town Manager or BoS rather than to the Director of PED. Another noted that in most towns this department reports to the Town Government, e.g. BoS, and therefore agreed that the question was more appropriate for the BoS.)
- The PED has become the Town Manager's area to do what he wants. That's the way the Town Manager system was set up.
- What can be done to have the PED work more in concert with the PB? Recently TM articles have strengthened the role of the PB and a clearer connection between the PED and PB would benefit the Town.
- Some would like the PED to be less political.
- There used to be more interaction among the various boards and departments. Now there is little or no mutual assistance among the various boards and departments.
- Should the Zoning Board of Appeals (ZBA) be an entity operating on its own and not under the direction of the PED?
- Why does the Senior Planner representing the PED participate with the ZBA during its meetings, acting in effect as an ex-officio member of the ZBA, whose members are appointed by the BoS? Doesn't this close level of participation provide unusual influence on this quasi-judicial body? There is a need to define this role more clearly.
- What is the current status on working with industry for the Town's benefit? How is this done? How is it going?
- P&Z has responsibility for providing oversight of PED activities. Would it be possible to have a regular PED report to P&Z on various issues, say once every quarter?

These questions will be provided to Kathy in advance of the next P&Z meeting on January 9.

6. Discussion of Building Occupancy Regulations

Betty Muto reported on independent research she has done on the issue of overcrowding of housing units in Framingham, with particular concern for an increase in the number of multiple-family units. She noted that in some areas groups purchase single-family houses and then occupy the building together, effectively changing them into lodging or rooming houses, which challenges the terms of the By-Law for such residences. Examples were cited. Related issues are parking violations, excessive cutting of trees, and other violations of the Zoning By-Law. She noted that neighbors are concerned about these developments, but are limited to reactive responses: cannot go to the Building Commissioner to lodge a complaint until the violation occurs.

Betty cited an Article considered by the Town of Milton (copy provided to the Committee) to amend their By-Law to require Board of Health approval when renting or leasing housing units to ensure that State laws are followed with respect to limiting occupancy to the number of persons such units may lawfully

accommodate. Failure to comply with these requirements would result in fines, which are defined in the proposed By-Law.

Betty also has discussed these issues with Framingham Building Commissioner. As with Milton, a key problem is that are limited resources for enforcing the local By-Laws. One idea floated was to use the money from fines to hire an enforcement officer. However, with the number of multi-family units involved in Framingham (11,000 +), it is impractical to consider that the level of funding would match the amount of inspections involved.

Betty planned to address the question of overcrowding with the Board of Health. Another recommendation made at the meeting was to add this matter to the list of questions for Kathy Bartolini, since it relates to PED activities on housing.

Betty will continue her research and report at future P&Z meetings.

7. Adjournment

At 9:10 PM a motion to adjourn was made, seconded, and passed unanimously.